

**CITY OF BURIEN
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

APPLICANT: John P. Feeney

CASE NO.: PLA 07-1796

LOCATION: 806 SW 132nd Street (see Exhibit A, Attachment 1)

APPLICATION: A request to allow the development of a six lot subdivision and construction of five new single family residences in an RS 7,200 zoning district (see Exhibit A, Attachments 4, 5 & 6).

REVIEW PROCESS: Hearing Examiner conducts an open record hearing and makes a recommendation to the City Council, who then makes the final decision.

SUMMARY OF RECOMMENDATIONS

Staff Recommendation: Approve with conditions

Hearing Examiner Recommendation: Approve with conditions

PUBLIC HEARING

After reviewing the official file, which included the Staff Recommendation; and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Feeney application was opened at 2:10 p.m., January 9, 2008, in City Hall, Burien, Washington, and closed at 2:20 p.m. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Community Development Department.

Hearing Comments:

The following is a summary of the comments offered at the public hearing.

From the City

Chip Davis, Project Planner: Summarized the specifics of the application noting that a variance was granted under King County regulations to allow a cul-de-sac access. In addition, the 1.04 acre parcel would be divided into six residential lots that would range in size from 6,483 square feet to 10,546, the smaller lots are allowed under the City's lot averaging provisions and the existing single family residence will be retained. Mr. Davis

also noted that the subdivision will be required to adhere to the 2005 Stormwater Manual and that a separate 7,738 square foot tree tract will be set aside at the north end of the subdivision. Mr. Davis provided staff's analysis and recommendation (see Exhibit A).

From the Applicant

Brian Herron, Engineer: Concurred with staff's analysis and recommended conditions. Mr. Herron also noted that there was a cottonwood tree that had been removed from the tree tract, but that the remaining trees would be retained. Relative to Mr. Vance's letter (see Exhibit B) he speculated that Mr. Vance had not been aware of the extent of tree retention and they would respond to his concerns.

From the Community

None in attendance

FINDINGS OF FACT AND CONCLUSION

1. The Facts presented in the Site Description and Project History on pages 4 through 7 in Exhibit A, Staff Recommendation, December 14, 2007, accurately reflects the site circumstances, zoning requirements and land use, and are hereby adopted by reference.
2. The Fact and Conclusion regarding compliance with SEPA review on page 8 in Exhibit A, Staff Recommendation, December 14, 2007, is accurate and hereby adopted by reference.
3. The Facts and Conclusion regarding compliance with the Approval Criteria on pages 9 and 10 in Exhibit A, Staff Recommendation, December 14, 2007, are accurate and are hereby adopted by reference.
4. The Facts and Conclusions regarding compliance with Development Regulations on pages 10 through 17 in Exhibit A, Staff Recommendation, December 14, 2007, are accurate and are hereby adopted by reference. In particular, they include:

General Compliance	page 10
Lot Size and Layout	pages 10 and 11
Street Improvements, Access and Parking	pages 11 through 13
Utilities	pages 13 and 14
Surface Water Management	pages 14 through 16
Fee-In-Lieu of Recreation Space	page 16
Tree Retention and Landscaping	pages 16 and 17
5. The Facts and Conclusions regarding Preliminary Plat Map requirements on page 17 in Exhibit A, , Staff Recommendation, December 14, 2007, are accurate and are hereby adopted by reference.
6. The Facts and Conclusions regarding compliance with the Comprehensive Plan on page 17 in Exhibit A, , Staff Recommendation, December 14, 2007, are accurate and are hereby adopted by reference.

RECOMMENDATION

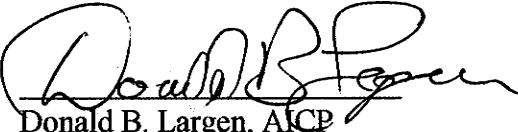
Based upon the foregoing findings and conclusions, it is recommended that the request for a Preliminary Plat approval for a six lot subdivision be approved, subject to the following conditions:

1. The application is subject to all applicable requirements contained in the Burien Municipal Code (including but not limited to the Zoning Code, Building Code and Fire Code), the 2005 King County Surface Water Design Manual and the 2007 King County Road Standards. The applicant shall modify the size of Lot 4 prior to submittal of the final plat to better address required development standards (see Conclusion II.E.2, Exhibit A).
2. Prior to recording the final plat, the applicant shall:
 - a. Submit detailed on-site street, access and frontage improvement plans for Public Works Department review that include the design of the new private roadway and a cul-de-sac and frontage improvements designed in accordance with the requirements of the King County Road Standards 2007 and addressing concerns expressed in the December 4, 2007 Development Review Engineer's review memorandum and by the Fire Marshal in the July 3, 2007 Certificate of Fire Hydrant Availability. Plans for this work shall be prepared by a Civil Engineer, licensed in the State of Washington (see Conclusion II.E.3, Exhibit A).
 - b. Submit a Full Drainage Review and final Technical Information Report for the project for review and approval by the Development Review Engineer addressing concerns expressed in the December 4, 2007 Development Review Engineer's review memorandum (see Conclusion II.E.5, Exhibit A).
 - c. Submit detailed storm water improvement plans for Public Works Department review that include the design of the new on-site storm water detention and treatment facilities for proposed development. The proposed improvements shall address the concerns outlined in the December 4, 2007 Development Review Engineer's review memorandum. Plans for this work shall be prepared by a Civil Engineer, licensed in the State of Washington (see Conclusion II.E.5, Exhibit A).
 - d. Submit a revised final plat map showing: the required SW 131st Street right-of-way dedication, a statement of purpose and on-going maintenance for the proposed Tree Tract and other necessary changes as outlined in the Development Review Engineer's Memorandum, dated December 4, 2007 (see Conclusions II.E.3, II.E.7 and II.F.1, Exhibit A).
 - e. Applicant shall submit final construction plans; these plans shall include, but not be limited to the following modifications and corrections:

- i. indicate an improved private roadway and cul-de-sac and frontage improvements along the SW 132nd Street frontage to be improved to the standards identified by the Development Review Engineer's Memorandum dated December 4, 2007 (see Conclusion II.E.3, Exhibit A).
 - ii. indicate that the access tract and cul-de-sac have been designed to accommodate public safety and fire access concerns (see Conclusions II.B.2, II.E.3 and II.E.4, Exhibit A).
 - iii. indicate the connection of all on-site private sidewalks with the public sidewalks (see Conclusion II.E.3, Exhibit A).
 - iv. indicate all on-site surface water management facilities proposed to address the concerns expressed by the Development Review Engineer's Memorandum dated December 4, 2007 (see Conclusion II.E.5, Exhibit A).
 - f. Pay a fee in lieu of providing 390 square feet of recreation space on the property for each of the five new lots. The fee shall be 390 x the current assessed value per square foot of the property (see Conclusion II.E.6, Exhibit A).
 - g. Improve private access tract to service the development and impose restrictions on the access road as required by the Fire Marshal (see Conclusion II.B.2, Exhibit A).
 - h. Install and underground all utilities as required by the appropriate District (see Conclusion II.E.4, Exhibit A).
 - i. Submit final storm water plans designed according to the 2005 King County Surface Water Design Manual to the Public Works Department for review and approval (see Conclusion II.E.5, Exhibit A).
 - j. Install the surface water facilities as required and provide approved performance and maintenance bonds or other security methods as required by the Public Works Department (see Conclusion II.D.1 and II.E.1, Exhibit A).
 - k. Install the private street and cul-de-sac improvements and frontage improvements for SW 132nd Street frontage as required and provide approved performance and maintenance bonds or other security methods as required by the Public Works Department and consistent with Subdivision Code Sections 17.25.010 and 17.30.040 (see Conclusion II.E.3, Exhibit A).
3. Prior to beginning any work in the public right-of-way or on-site, the applicant shall apply for and obtain Right-of-Way Construction Permit and Grading and Clearing Permit for all work to be completed in the public right-of-way and on-site (see Conclusion II.E.3, Exhibit A).
 4. Prior to the issuance of development permits for any development on all Lots, the applicant shall:
 - a. Submit erosion control plans for City review and approval (see Conclusion II.E.5, Exhibit A).
 - b. Submit a significant tree retention plan identifying trees to remain on both individual lots and within the Tree Tract and proposed protective measures for

- review and approval by the Department of Community Development. (see Development Regulations, Attachment 2, and Conclusion II.E.7, Exhibit A).
- c. Protect all significant trees, on individual lots as well as within the Tree Tract which will be immediately adjacent to construction activities, as identified in the tree retention plan at the drip line by a temporary five-foot high chain link or plastic net fence prior to grading of the site. Tree protection measures as outlined in BMC Section 19.25 shall be followed prior to and during construction (see Conclusion II.E.7, Exhibit A).
 - d. Submit site plans which indicate those significant trees are to be preserved and locations for planting of additional trees, if any are required, based on a review of the significant tree retention plan (see Conclusion II.E.7, Exhibit A).
 - e. Submit a plan and assurance that all new trees and landscaping will be privately maintained for a period of at least three years following installation (see Conclusion II.E.7, Exhibit A).
 - f. Demonstrate compliance with all of the requirements of the Fire Marshal relating to access and fire safety (see Conclusion II.E.4, Exhibit A).

Entered this 22nd day of January, 2008.



Donald B. Lergen, AICP
Hearing Examiner

CITY COUNCIL REVIEW AND DECISION

The City Council will take final action on this application in accordance with the provisions of BMC 19.65.075.

JUDICIAL REVIEW

The following is a summary of the deadlines and procedures for judicial review.

BMC 19.65.060 allows the city's final decision to be appealed by filing a land use petition in King County Superior Court. Such petition must be filed within 21 days after issuance of the decision, as provided in RCW 36.70C. Requirements for fully exhausting City administrative appeal opportunities must first be fulfilled.

EXHIBITS

The following exhibits were offered and entered into the record:

- A. Staff Recommendation to the Hearing Examiner with attachments dated December 14, 2007
- B. E-mail submitted by Ricky Allen Vance and attached photo dated January 8, 2008.

PARTIES OF RECORD

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